

Agency 38

Savings and Loan Department

Articles

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Article 1.—ESTABLISHMENT OF BRANCH OFFICES AND RELOCATION OF HOME AND BRANCH OFFICES

38-1-1. Establishment of branch offices.

The application for the establishment of a new branch office shall be filed in six (6) copies with the savings and loan commissioner. The application may be in letter form and shall include or be accompanied by the following exhibits: (1) Copy of resolution adopted by the board of directors of the association declaring its intention to establish a new branch office and authorizing the officers to file an application for approval of the branch office.

(2) Statement showing the location and address of the proposed new branch office; evidence that the site is or will be available; and a full description of the facilities to be provided and used.

(3) The proposed operating budget of the proposed branch for the first two years, including branch expenses which will be paid by the home office or another branch office.

(4) Information designed to show: (a) There will be at the time the branch is opened, a necessity for the proposed facility in the community to be served by it;

(b) There is a reasonable probability of usefulness and success of the proposed branch;

(c) The proposed branch can be established

without undue harm or injury to properly conducted existing associations.

(5) Check for fee in the amount of \$200. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5225; effective Jan. 1, 1966; amended Jan. 1, 1973.)

38-1-2. Relocation of home or branch offices.

The application and all exhibits for the move or relocation of any previously established home office or branch office shall be filed in six (6) copies with the savings and loan commissioner. The petition may be in letter form and shall be accompanied by the following exhibits: (1) Copy of a resolution adopted by the board of directors of the association declaring its intention to move or relocate a previously established home or branch office and authorizing the officers to file an application for a move or relocation of such home or branch office.

(2) Statement showing the location and address of the new location for the home or branch office; evidence that the site is or will be available; and a full description of the facilities to be provided and used.

(3) Statement of the reasons for the proposed move or relocation.

(4) Information designed to show: (a) There will be a necessity for the services to be provided at the new location;

(b) There is a reasonable probability of usefulness and success at the new location;

(c) The move or relocation will not cause undue harm or injury to properly conducted existing associations.

(5) Check for fee in the amount of \$100. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5225; effective Jan. 1, 1973.)

38-1-3. Processing of applications for establishment or relocation of a home office or branch office. Upon receipt of an application meeting the requirements for the establishment, move or relocation of a home office or branch office, the commissioner shall promptly schedule a place and time for hearing by the savings and loan board, the date of such hearing to be not later than sixty (60) days following receipt of the complete and proper application. At least thirty (30) days in advance of the date set for hearing, the commissioner shall, by registered or certified mail, give notice of the application and the place and time of hearing to all savings and loan associations having an office in the county where the new or relocated home office or branch office is sought to be located. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5225; effective Jan. 1, 1973.)

38-1-4. Hearing. The savings and loan board shall hold a hearing on the application for establishment, move or relocation of a home office or a branch office at the time and place scheduled by the commissioner. At such hearing, all interested persons shall be afforded an opportunity to present oral or written evidence in support of or opposition to the application. Should the hearing be continued for the purpose of providing additional information for consideration by the board, the commissioner shall give written notice to the applicant and other parties who appeared at the hearing of the time and place that the hearing will be reconvened. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5225; effective Jan. 1, 1973.)

38-1-5. Decision. Within ten (10) business days following completion of the hearing, the board shall issue an order either approving or disapproving the application. If the application is disapproved, the board shall state the reasons for disapproval. In the event the application is approved, the board shall state in writing the following findings based upon the evidence presented to the

board: (1) There is or will be at the time the home office or branch is opened, the necessity for same in the community to be served by it.

(2) There is a reasonable probability of usefulness and success of the proposed home office or branch.

(3) The proposed home office or branch can be established without undue injury to properly conducted existing associations or federal savings and loan associations.

The commissioner shall promptly furnish the applicant a copy of the board's order and the commissioner shall promptly give written notice of the board's decision to all associations given advance notice of the hearing. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5225; effective Jan. 1, 1973.)

Article 2.—AGENTS

38-2-1. Designation. The officers of an association may, when authorized by a resolution adopted by the board of directors of the association, appoint agents to perform specific duties for the association in geographical areas not conveniently served by the approved home office or branches of the association. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5501; effective Jan. 1, 1973.)

38-2-2. Notification required. Each association employing agents on the effective date of this regulation shall furnish the commissioner a certified listing of the names and addresses of all its designated agents. Thereafter, an association officer shall by written notice promptly inform the commissioner of the name and address of each newly designated agent and each agent named as substitute for a previously designated agent. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5501; effective Jan. 1, 1973.)

38-2-3. Written agreements required. The authorized activities of all designated agents shall be described in written agreements between an association and each designated agent. The agent shall have no greater authority to bind the association than the authority set forth in the written agreement. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5501; effective Jan. 1, 1973.)

38-2-4. Restricted activities. Agents may not be authorized to:

(1) Approve loans.

(2) Issue passbook certificates or other evidence of savings accounts or deposits.

(3) Pay withdrawals. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5501; effective Jan. 1, 1973.)

38-2-5. Collections. Agents may be authorized to collect and accept moneys due the association and may accept savings payments for transmission to the association; provided any such collection or payment may not be recognized as received by the association until actually received and recorded in an office of the association. Any written receipt issued by a designated agent shall clearly state that the amount has been accepted for transmittal to the association. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5501; effective Jan. 1, 1973.)

38-2-6. Remuneration. Remuneration to agents, whether paid directly or indirectly by the association, the amount or rate of which shall be stated in the written agreement, shall be limited to commissions and fees (including retainer) commensurate with the services performed and to reimbursement for actual expenses incurred in connection with such services. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5501; effective Jan. 1, 1973.)

38-2-7. Advertising. Any advertising in which an agent is named or in which an agent's address is given shall include the complete name and home office address of the association, and shall state that the individual or firm named is an agent of the association. (Authorized by K.S.A. 17-5427, 17-5601, K.S.A. 1972 Supp. 17-5501; effective Jan. 1, 1973.)

Article 3.—NOTICE THAT ACCOUNTS OR DEPOSITS ARE NOT INSURED AS REQUIRED BY K.S.A. 17-5825

38-3-1. Printed presentations. (a) In every printed presentation which solicits savings investments, or contains a reference to interest rate or rates paid on savings investments, the absence of insurance shall be set forth in sufficient prominence that such fact shall not be rendered obscure. The required information shall not be presented in an ambiguous fashion or intermingled with the context of other material.

(b) For purposes of this article, printed presentations include but are not limited to circulars, leaflets, booklets, window displays, sign boards,

advertisements, notices in periodicals, and letters soliciting savings investments. (Authorized by K.S.A. 1976 Supp. 17-5601, 17-5825; effective, E-76-59, Jan. 1, 1976; effective Feb. 15, 1977.)

38-3-2. Video presentations. In every video presentation which by visual and audio transmission solicits savings investments, or contains a reference to interest rate or rates paid on savings investments, the absence of insurance shall be set forth in the visual transmission. The required information shall not be presented in an ambiguous fashion or obscured within the context of other material. The information shall remain in view long enough to be read and interpreted by a person with normal vision. (Authorized by K.S.A. 1976 Supp. 17-5601, 17-5825; effective, E-76-59, Jan. 1, 1976; effective Feb. 15, 1977.)

38-3-3. Audio presentations. In every audio presentation (including video without visual material) which solicits savings investments, or contains a reference to interest rate or rates paid on savings investments, the absence of insurance shall be set forth in the transmission. The required information shall not be presented in an ambiguous fashion, obscured within the context of other material, or diminished in clarity by sound modulation or speed of presentation. (Authorized by K.S.A. 1976 Supp. 17-5601, 17-5825; effective, E-76-59, Jan. 1, 1976; effective Feb. 15, 1977.)

Article 4.—UNSECURED LOANS FOR PROPERTY ALTERATION

38-4-1. Conditions under which loans may be made. Any association may, on adoption of such a loan plan by its board of directors, make or purchase unsecured loans for property alteration, repair, equipping or improvement, subject to the limitations set forth in K.S.A. 1983 Supp. 17-5501(t) and acts amendatory thereof, and the following additional prohibitions, limitations, and conditions: (a) Each such loan investment shall be evidenced by one or more notes, and shall be repayable in at least quarterly installments, with the first installment due no later than 120 days from the date the loan is made, and a final installment due no later than 20 years and 32 days from such date.

(b) Any such loan investment made for equipping property shall be restricted to home loans. (Authorized by and implementing K.S.A. 1983

Supp. 17-5501(t)(2); effective May 1, 1979; amended May 1, 1985.)

Article 5.—LINE OF CREDIT REAL ESTATE LOANS

38-5-1. Conditions under which loans may be made. Any association may, on adoption of such a loan plan by its board of directors, make or purchase secured or unsecured line of credit real estate loans subject to the limitations set forth by K.S.A. 1978 Supp. 17-5501(t)(C) and acts amendatory thereof, and the following additional prohibitions, limitations and conditions: (a) Only those associations with general reserve accounts in compliance with K.S.A. 17-5409, and acts amendatory thereof, may make or purchase such loans.

(b) The real property must be located in the association's regular lending area.

(c) Such loans shall be fully documented to establish

- (1) the purpose of the loan;
- (2) the source and reliability of repayment;
- (3) the reputation and proven capacity of the borrower;

(4) the quality of the security interest in any security other than real estate that is used as support;

(5) if the loan is for a business purpose, full financial statements of the borrower or the borrower's predecessor for three (3) years prior to the loan;

(6) if the loan is for a business purpose, income forecasts, projections, cash flow statements, and budgets;

(7) anything else necessary to establish the soundness of the loan;

(8) controls employed to ensure that actions on which the association relies are proceeding as scheduled.

(d) Such loans shall not be sold or assigned to other associations for servicing. (Authorized by K.S.A. 1978 Supp. 17-5501(t)(C); effective May 1, 1979.)

Article 6.—PARTICIPATION LOANS

38-6-1. (Authorized by K.S.A. 1979 Supp. 17-5501(u); effective May 1, 1979; revoked May 1, 1985.)

Article 7.—EDUCATIONAL LOANS

38-7-1. (Authorized by K.S.A. 1978 Supp. 17-5501(v); effective May 1, 1979; revoked May 1, 1985.)

Article 8.—MANUFACTURED HOME FINANCING

38-8-1. Conditions concerning manufactured home financing. (a) As used in this regulation:

(1) "Manufactured home" shall have the meaning ascribed thereto in 42 U.S.C. Sec. 5402(6).

(2) "Chattel paper" shall mean written evidence of both a monetary obligation and a security interest.

(b) Subject to subsection (c), any association may:

- (1) make or buy any manufactured home loans;
- (2) provide inventory financing for manufactured home dealers; and

(3) invest in manufactured home chattel paper.

(c) All financings relating to manufactured homes shall be subject to the following limitations.

(1) All financing shall involve secured obligations.

(2) Chattel paper securing inventory shall be a direct obligation of the dealer.

(3) Chattel paper shall provide for the lender's protection regarding insurance, taxes, other governmental levies, maintenance and repairs. (Authorized by and implementing K.S.A. 1983 Supp. 17-5501 (u) and (w); effective May 1, 1979; amended May 1, 1985.)

Article 9.—SAFETY DEPOSIT BOXES

38-9-1. Conditions concerning safety deposit box rental. An association may maintain safety deposit boxes and rent the same for public use subject to limitations set forth in K.S.A. 1978 Supp. 17-5501(x), and the following prohibitions, limitations, and conditions: (a) An association shall, by contract, limit its liability to the lessee or lessees of such safety deposit box or boxes to the replacement or loss value of the contents of each box to an amount not more than one thousand dollars (\$1,000), or carry insurance of a type protecting the association against any and all legal liabilities arising out of the rental of the safety deposit boxes as set forth in said paragraph (2).

(b) Such insurance shall provide coverage

equal to twenty-five thousand dollars (\$25,000) for any number of boxes up to one hundred (100), plus one thousand dollars (\$1,000) for each additional twenty (20) boxes or fraction thereof, available for rent up to a maximum coverage of one hundred thousand dollars (\$100,000).

(c) An association shall not contractually incur liabilities beyond the general liabilities incident to the conduct of such safety deposit business. (Authorized by K.S.A. 1978 Supp. 17-5501(x); effective May 1, 1979.)

Article 10.—INTERSTATE BRANCHING

38-10-1. Permission to establish branches.

(a) A Kansas state-chartered savings and loan association may be permitted by the savings and loan commissioner to establish branches within another state provided:

(1) the establishment of the branch office will be achieved in conjunction with a transaction in which:

(A) the assets and/or liabilities are acquired by the Kansas state-chartered association by merger or otherwise; and

(B) the insured accounts of the failing non-Kansas state-chartered institution are assumed by and transferred to the insured Kansas state-chartered association as a means of payment of insurance by the federal savings and loan insurance corporation or pursuant to an action by the federal savings and loan insurance corporation undertaken to prevent the liquidation of the non-Kansas state-chartered association; and

(2) the commissioner determines that the acquiring of the non-Kansas state-chartered association poses no excessive risk to the acquiring Kansas state-chartered association.

(b) The association shall apply to the commissioner in the form and under the conditions required by the commissioner.

(C) A Kansas state-chartered association that acquires a failing institution may establish or operate branch offices in a state or states, other than the state in which the failing institution operates, if branching rights under this subsection do not in any event exceed three states other than the state in which the failing institution operates. (Authorized by and implementing 1987 HB 2157; effective, T-88-26, Aug. 19, 1987; effective May 1, 1988.)

38-10-2. Parity of branching rights. Each Kansas state-chartered association with

branches in another state shall be afforded the same branching rights as the associations operating under a charter granted by the supervisory authorities of that state. (Authorized by and implementing 1987 HB 2157; effective, T-88-26, Aug. 19, 1987; effective May 1, 1988.)

38-10-3. Fees for Kansas state-chartered associations. Each Kansas state-chartered association with branches in other states shall be billed for supervisory fees as if all assets were present within the state of Kansas except that the association shall be credited for fees paid to supervisory authorities in the other states. Credit extended for the fees paid shall not exceed the amounts that would be assessed upon the assets or liabilities if the assets or liabilities were present within the state of Kansas. (Authorized by and implementing 1987 HB 2157; effective, T-88-26, Aug. 19, 1987; effective May 1, 1988.)

38-10-4. Non-Kansas association branch establishment. (a) Any non-Kansas state-chartered association may establish branches within Kansas if:

(1) the branch office will be established in conjunction with a transaction in which;

(A) the assets or liabilities of a failing insured Kansas state-chartered association are acquired by the non-Kansas state-chartered association, by merger or otherwise; and

(B) the insured accounts of the failing Kansas state-chartered association are assumed by and transferred to an insured non-Kansas state-chartered association as a means of payment of insurance by the federal savings and loan insurance corporation or pursuant to an action by the federal savings and loan insurance corporation undertaken to prevent the liquidation of the Kansas state-chartered association; and

(2) the non-Kansas state-chartered association meets the requirements for insurance of accounts as specified in K.S.A. 17-5824.

(b) The non-Kansas state-chartered association shall apply to the commissioner for approval of the transaction to establish the branch in the form and under the terms required by the commissioner. (Authorized by and implementing 1987 HB 2157; effective, T-88-26, Aug. 19, 1987; effective May 1, 1988.)

38-10-5. Branching rights of non-Kansas associations. Each non-Kansas state-chartered association permitted to establish branches

in the state of Kansas shall have the same branching rights as a Kansas state-chartered association. (Authorized by and implementing 1987 HB 2157; effective, T-88-26, Aug. 19, 1987; effective May 1, 1988.)

38-10-6. Non-Kansas association fees.

Each non-Kansas state-chartered association shall pay supervisory fees to the Kansas savings and loan department at the same rate as Kansas state-chartered savings and loans. The fees shall be based upon the amount of savings accounts deposited, rather than total assets, at branches located within Kansas. (Authorized by and implementing 1987 HB 2157; effective, T-88-26, Aug. 19, 1987; effective May 1, 1988.)

38-10-7. Examinations of non-Kansas associations. (a) The books and records main-

tained by non-Kansas state-chartered associations at branches within the state of Kansas shall be open for inspection and examination by duly appointed representatives of the Kansas savings and loan department during the normal hours of operation for these associations.

(b) Costs associated with an examination conducted by the Kansas savings and loan department shall be paid by the association.

(c) Each non-Kansas state-chartered association permitted to do business within the state of Kansas shall supply the state of Kansas with at least one copy of the examination report conducted by the federal home loan bank of the district within which the home office of the association is located. (Authorized by and implementing 1987 HB 2157; effective, T-88-26, Aug. 19, 1987; effective May 1, 1988.)